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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/752,134	12/27/2000	Gilbert Neiger	042392.P9770	8719
59796	7590	11/13/2007		
INTEL CORPORATION c/o INTELLEVATE, LLC P.O. BOX 52050 MINNEAPOLIS, MN 55402			EXAMINER PYZOGA, MICHAEL J	
			ART UNIT 2137	PAPER NUMBER
			MAIL DATE 11/13/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/752,134

Applicant(s)

NEIGER ET AL.

Examiner

Michael Pyzocha

Art Unit

2137

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9 and 31-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9 and 31-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 2137

DETAILED ACTION

1. Claims 9 and 31-40 are pending.
2. Response filed 10/05/2007 has been received and considered.

Examiner's Note

3. It is noted to Applicant that claim 9 has strikethroughs and underlines even though the claim has been previously presented.

Specification

4. The objection to the specification has been withdrawn based on the filed amendment.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 9 and 31-40 are rejected under 35 U.S.C. 102(b) as being anticipated by Robinson, U.S. Patent No. 5,522,075.

Art Unit: 2137

As per claims 9, 33, 36, and 39, Robinson discloses running guest software in a processor mode that enables the guest software to operate at a privilege level intended by the guest software (Col 14, lines 12-15); identifying an attempt of the guest software to perform an operation restricted by said processor mode (Col 12, lines 50-53); determining that the attempt of the guest software would fail if the guest software was running outside said processor mode (Col 12, lines 20-60); allowing the guest software to attempt the operation in response to determining that the attempt would fail (Col 12, lines 20-60); and transferring control over the operation to an operating system running within said processor mode in response to the guest software attempting the operation (see column 12 lines 20-60 and column 7 lines 5-42).

As per claims 31, 34, 37, and 40, Robinson discloses determining that the attempt of the guest software would fail includes determining that the guest software is running with insufficient privilege to perform the operation (Col 12, lines 20-60).

As per claims 32, 35, and 38, Robinson discloses exiting said processor mode to transfer control over the operation to a virtual machine monitor running outside said processor mode in

Art Unit: 2137

response to determining an attempt would succeed (see column 12 lines 20-60).

Response to Arguments

7. Applicant's arguments filed 11/07/2006 have been fully considered but they are not persuasive. Applicant argues that Robinson fails to disclose, "transferring control over the operation to an operating system running within said processor mode in response to the guest software attempting the operation".

With respect to this argument Robinson teaches that instructions are performed in the VM mode or a VMM mode (see column 12 lines 20-60). Robinson further teaches that both the VM and VMM contain an operating system (see column 7 lines 5-42). Whenever an operation is performed in either mode it is controlled by an operating system. So in the situation when a privileged operation is attempted in the VM mode it transfers control to the operating system of the VMM. Furthermore, in order for the VM to be able to operate again the control must be transferred back to the operating system of the VM. Therefore, Robinson discloses "transferring control over the operation to an operating system running within said processor mode in response to the guest software attempting the operation".

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Pyzocha whose telephone number is (571) 272-3875. The examiner can normally be reached on 7:00am - 4:30pm first Fridays of the bi-week off.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571) 272-3865. The fax phone number for the

Art Unit: 2137

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MJP


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SUPERVISORY PATENT EXAMINER